IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

Con.Case(C).No. 1327 of 2006(S)
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AGAINST THE JUDGEMENT IN WA.1369/2006 Dated 27/07/2006
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PETITIONER/5TH RESPONDENT
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HYZIL J.B., W/O.SYAMKUMAR,
AGED 27, PARADISE, KAIVANVILA,
NELLIMOODU P.O., NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SMT.P.V.ASHA

RESPONDENTS/2ND APPELLANT & 3RD RESPONDENT
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1. SRI.MURUKAN ACHARI,
(FATHER'S NAME AND AGE NOT KNOWN TO PETITIONER),
DIRECTOR IN CHARGE OF HIGHER SECONDARY EDUCATION,
THIRUVANANTHAPURAM.

2. SRI.SIVAJADAS,
(FATHER'S NAME AND AGE NOT KNOWN TO PETITIONER),
SECRETARY, KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM-4.

BY GOVERNMENT PLEADER MR.T.B.HOOD

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 16/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**V.K. BALI, C.J. & S.SIRI JAGAN, J.**

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**Cont.Case (C) No.1327** of 2006

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Dated, this the 16th day of November, 2006

**JUDGMENT**

**V.K.Bali,C.J.(Oral)**

The complaint in the present contempt matter is of non-compliance of the directions contained in the judgment of this Court in W.A.No.1000 of 2006 decided on 18th July, 2006, Annexure A3, the operative part whereof reads as follows:

> "Accordingly, we are of the view that taking into account the provisions contained in the Special Rules, as discussed above and the competing claims of the candidates, the direction in the impugned judgment shall be modified as under:
>
> (1) All the vacancies that had arisen until the date of the notification issued by the PSC, viz., 20.9.2001 shall go to the candidates included in the ranked list prepared by the PSC as now in force.
>
> (2) The vacancies that had occurred later than 20.9.2001, shall be filled up after ascertaining whether as on the dates of the occurrence of the respective vacancies, those belonging to the category of HSST (junior) in the concerned subject, who had completed the period of probation, were/are available in service. If there are such candidates, the vacancies shall go to such hands.

(3) In their absence, first out of a block of four vacancies thus available in the subject concerned shall be filled up by appointing High School Assistants or Primary School Assistants duly qualified and the remaining four vacancies shall go to direct recruitment.

(4) In the absence of such qualified HSAs/UPSAs, those vacancies shall also go to direct recruitment.

(5) Reporting of vacancies to the PSC, as directed by the learned single Judge shall be, subject to the directions as above.

With these modifications in the judgment impugned, these writ appeals are disposed of."

2. Pursuant to the notice issued by this Court Mr.T.B.Hood, Government Pleader, who appears on behalf of the respondents has handed over to us, during the course of arguments, a copy of the order passed by the Director of Higher Secondary Education, Housing Board Buildings, Santhi Nagar, Thiruvananthapuram-1 dated 15.11.2006, which we hereby place on record, which would show that the vacancies that arose as on 20.9.2001 and upto 31.10.2006 have been assessed and accordingly reported. The said order was passed in compliance of the judgment of this Court in W.A.No.1000 of 2006 and therefore it cannot be said that the respondents have committed any contempt of this Court. Counsel for the petitioner, however,

contends that far less vacancies have been reported and the petitioner ought to have been accommodated if all the vacancies were reported pursuant to the orders passed by this Court. This may be true, but we cannot comment on this contention in contempt proceedings. All that needs to be seen in the present contempt petition is as to whether the directions contained in the judgment dated 18th July, 2006 have been complied with or not. If there is no direction from any of the directions reproduced above which may even remotely suggest that the respondents were required to report a specified number of vacancies they cannot be found fault with. If that be so, this contempt matter has to be closed with liberty to the petitioner to rake up the issue with regard to the number of vacancies to be reported in appropriate proceedings. So ordered.

**V.K. BALI,**
**CHIEF JUSTICE.**

**S.SIRI JAGAN,**
**JUDGE.**

vns